

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PHAYSONE V.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. C20-316 RAJ

**ORDER AFFIRMING THE
COMMISSIONER'S FINAL
DECISION AND DISMISSING
THE CASE WITH PREJUDICE**

Plaintiff appeals denial of his application for Supplemental Security Income, contending the ALJ erred by discounting his testimony and three treating doctors' opinions. Dkt. 10. As discussed below, the Court **AFFIRMS** the Commissioner's final decision and **DISMISSES** the case with prejudice.

BACKGROUND

Plaintiff is 45 years old, has a limited education, and has worked as a mail

ORDER AFFIRMING THE
COMMISSIONER'S FINAL DECISION AND
DISMISSING THE CASE WITH PREJUDICE

1 deliverer. Dkt. 8, Admin. Transcript (Tr.) 27-28. Plaintiff alleges disability as his June
 2 2017 application date. Tr. 13. After conducting a hearing in September 2018, the ALJ
 3 issued a decision finding Plaintiff not disabled. Tr. 35-74, 13-29. In pertinent part, the
 4 ALJ found Plaintiff's severe physical and mental impairments limited him to light-
 5 exertion, unskilled, simple work with limited public contact and no teamwork. Tr. 16,
 18.

6 DISCUSSION

7 A. Medical Opinions

8 The parties disagree as to the standard of review. Plaintiff contends the ALJ could
 9 not discount the treating doctors' controverted opinions without providing specific and
 10 legitimate reasons, while the Commissioner contends the ALJ was only required to
 11 "explain how he considered the factors of supportability and consistency." Dkt. 11 at 9.
 12 The Court need not address the dispute because, under either standard, the ALJ's reasons
 for discounting the opinions were sufficient.

13 1. Michael Madwed, M.D.

14 In March 2017, Dr. Madwed wrote a letter describing Plaintiff's chronic
 15 conditions of severe diabetes with "marked polyneuropathy" that causes pain, low back
 16 pain with radiculopathy, and severe depression. Tr. 338. Dr. Madwed opined Plaintiff's
 17 conditions "limit severely his ability to work." *Id.* The ALJ gave this opinion little
 18 weight because it provided no specific function-by-function limitations and only
 19 concluded Plaintiff was disabled, a determination reserved to the Commissioner. Tr. 24-
 20 25. Plaintiff asserts Dr. Madwed's opinion describes functional limitations, but fails to
 21 identify any. Dkt. 10 at 4. The letter contains no information on how long or how much
 22 Plaintiff can stand, walk, sit, lift, concentrate, or perform any other work-related function.
 23 Because conclusory statements of disability are "inherently neither valuable nor
 persuasive to the issue of" Social Security disability, the ALJ was not required to give the
 letter any weight. 20 C.F.R. § 416.920b(c). The Court concludes the ALJ did not err by

ORDER AFFIRMING THE
 COMMISSIONER'S FINAL DECISION AND
 DISMISSING THE CASE WITH PREJUDICE

1 discounting Dr. Madwed's opinion.

2 **2. Eric Schoen, M.D.**

3 Rheumatologist Dr. Schoen filled out a June 2018 Request for Medical Opinion
4 form, stating he had been treating Plaintiff for bilateral hand neuropathy and opining
5 Plaintiff could reach, hold, handle, or manipulate less than one-third of an 8-hour
6 workday. Tr. 548. The ALJ gave this opinion little weight because it lacked any
7 supporting explanation and conflicted with Dr. Schoen's own May 2018 clinical findings
8 of no more than mild tenderness in one finger. Tr. 26 (citing Tr. 824). Plaintiff argues
9 the May 2018 examination also shows tenderness and trace swelling in his feet, but fails
10 to explain any relevance to his hand function. Dkt. 12 at 5. Plaintiff also notes Dr.
11 Schoen's assessment of "[w]orsening bilateral hand pain secondary to progressive
12 diabetic neuropathy." Tr. 825. However, according to the treatment note, Plaintiff's
13 condition was worse compared to previously having *no* neuropathy in his hands. Tr. 824
14 ("Has longstanding stocking glove severe diabetic neuropathy in his lower legs and feet
15 but not previously in his hands"). The ALJ permissibly discounted Dr. Schoen's opinion
16 of extreme hand limitations as contradicted by his clinical findings showing only mild
17 tenderness in one tendon in one finger, with otherwise completely normal hands and
18 wrists. Tr. 824; *see Tommasetti v. Astrue*, 533 F.3d 1035, 1041 (9th Cir. 2008)
19 (incongruity between a treating physician's opinions and her own medical records is a
20 "specific and legitimate reason for rejecting" the opinions). Plaintiff asserts, without any
21 support in the record or other authority, that neuropathy is unrelated to tenderness. Dkt.
22 10 at 6. This conclusory statement fails to establish any error. Plaintiff identifies no
23 clinical findings supporting Dr. Schoen's opinion that the ALJ failed to consider. The
Court concludes the ALJ did not err by discounting Dr. Schoen's opinion.

21 **3. Tobias Dang, M.D.**

22 Dr. Dang filled out an August 2018 Request for Medical Opinion form, agreeing
23 that Plaintiff's mental health interfered with performing simple, routine activities of daily

ORDER AFFIRMING THE
COMMISSIONER'S FINAL DECISION AND
DISMISSING THE CASE WITH PREJUDICE

1 living on a regular basis. Tr. 882-83. Dr. Dang also agreed Plaintiff's reports that he
2 could barely get out of bed two to three days per week were consistent with Plaintiff's
3 reports to him during treatment and consistent with "the nature and severity of his
4 depressive disorder." Tr. 882. The ALJ gave these opinions little weight because they
5 were unsupported by any objective findings and inconsistent with Dr. Dang's own
6 treatment notes, and because Plaintiff entered mental health treatment primarily to
preserve his State benefits. Tr. 26.

7 In an April 2018 treatment note, Plaintiff told Dr. Dang he was seeing friends
8 weekly. Tr. 808. The ALJ found this inconsistent with Dr. Dang's opinion that
9 Plaintiff's ability to "rarely visit his two friends when he is feeling more functional" was
10 not inconsistent with "ongoing depression that is incapacitating on an intermittent basis."
11 Tr. 882, 26. The ALJ reasonably concluded the ability to have weekly visits with friends
undermined an opinion of incapacitating depression, more so than "rare" visits would.

12 Plaintiff planned a trip to California in July 2018. Tr. 861, 876. The ALJ
13 reasonably found this inconsistent with Dr. Dang's opinion of an inability to get out of
14 bed reliably. Plaintiff argues the record does not reveal the activities required during
15 such a trip and that he could have stayed in bed when his depression was severe.
16 However, the ALJ reasonably inferred a trip to California required getting out of bed
17 reliably enough to board scheduled airline flights to and from his destination, and to
18 engage in sufficient activities in California to make a trip worthwhile. "If the evidence
19 can reasonably support either affirming or reversing the [ALJ's] conclusion, the court
20 may not substitute its judgment for that of the [ALJ]." *Flaten v. Sec'y of Health &*
Human Servs., 44 F.3d 1453, 1457 (9th Cir. 1995). The ALJ's interpretation of the
record was reasonable and must be upheld.

21 The Court concludes the ALJ did not err by discounting Dr. Dang's opinions.

22 **B. Plaintiff's Testimony**

23 Plaintiff contends the ALJ erred by discounting his testimony because he failed to

ORDER AFFIRMING THE
COMMISSIONER'S FINAL DECISION AND
DISMISSING THE CASE WITH PREJUDICE

1 properly evaluate the three opinions addressed above. Dkt. 10 at 3. Because the Court
2 concludes the ALJ did not err in evaluating those opinions, the Court concludes the ALJ
3 did not err by discounting Plaintiff's testimony.

4 **CONCLUSION**

5 For the foregoing reasons, the Commissioner's final decision is **AFFIRMED** and
6 this case is **DISMISSED** with prejudice.

7 DATED this 14th day of September, 2020.

8 

9 The Honorable Richard A. Jones
10 United States District Judge

11
12
13
14
15
16
17
18
19
20
21
22
23 ORDER AFFIRMING THE
COMMISSIONER'S FINAL DECISION AND
DISMISSING THE CASE WITH PREJUDICE